

**TOWN OF NEEDHAM
FAMILY AND MEDICAL LEAVE POLICY
LEAVE ADMINISTRATION #312**

I. PURPOSE AND SCOPE

The purpose of this policy is to establish the eligibility, duration and procedural requirements relating to the administration of family and medical leave in accordance with the Family and Medical Leave Act of 1993.

II. APPLICABILITY

This policy applies to all employees who meet the eligibility requirements of the law, excluding those employees under the supervision and control of the School Committee. Employees whose positions are governed by civil service law or collective bargaining agreement are subject only to those portions of this policy, which are not specifically regulated by law or agreement.

III. DEFINITIONS

Refer to the Glossary of Terms in the Personnel Policy Manual for commonly used words and phrases.

Intermittent Leave Leave of absence taken increments of less than twelve weeks.

Serious Health Condition A condition which requires inpatient care or continuing treatment by a health care provider.

IV. POLICY

The Town of Needham is an employer under the meaning of the Family and Medical Leave Act of 1993. As such, eligible employees shall be granted family and medical leave under the following circumstances: for the birth and care of the employee's child; for the placement of a child in the employee's home for adoption or foster care; to care for the employee's seriously ill spouse, child or parent; and/or because of the employee's serious health condition that prevents him/her from performing his/her job functions. Unless combined with other leave entitlements, FMLA leave is unpaid leave. All employees will be notified in writing about the provisions of the FMLA (see Attachments A and B).

V. PROCEDURES

- A. Eligibility FMLA leave is available to those employees who have worked at least 1,250 hours (approximately 25 hours per week) for the twelve months prior to requesting such leave.

- B. Amount of Leave Eligible employees are entitled to take up to 12 weeks of FMLA leave in a 12 month period. To determine whether an employee is entitled to FMLA leave, the Personnel Department will examine the employee's use of FMLA leave during the preceding 12 month period.
- C. Intermittent Leave/Reduced Hours Schedule Intermittent leave will be allowed when medically necessary. In the case of birth or adoption, intermittent leave or reduced hours schedules may be allowed on a case by case basis at the approval of the department manager. Employees who have been approved for intermittent leave or reduced hours schedules must indicate on the appropriate attendance sheet the number of hours per week to be designated as FMLA leave.
- D. Employee Requests An employee wishing to use FMLA leave must submit a notice of request (see Attachment C), which must include his/her statement of intent to return to work. This request must be sent to both the employee's department manager and the Personnel Director. The Personnel Director will then send the employee official notice of his/her rights under the FMLA and Town policies (see Attachment D). The employee must provide 30 days notice for foreseeable leave under the FMLA. However, if the employee is using paid leave, notice requirements already set forth by Town policy or collective bargaining agreement will apply.
- E. Medical Certification/Updates
1. The Town of Needham will require written medical certification in all instances of employee or family member illness. Medical certification must be provided to the Town on the official Department of Labor certification form (see Attachment E) and must be submitted to the Town within 15 days of the original request for FMLA leave.
 2. When the employee is on leave status, the Town will require periodic updates (see Attachment F)
 3. The Town of Needham may, on a case by case basis determined by the department manager and the Personnel Director, require an employee to provide a second opinion regarding his/her own or family member's illness. If a second opinion is required, it will be at the Town's expense.
 4. The Town of Needham will require an employee on leave for his/her own health condition to submit certification of fitness to duty from his/her medical provider prior to returning to work.
 5. If an employee fails to return to work after an FMLA leave as a result of medical necessity, the Town will require the employee to provide medical certification. If the employee fails to submit certification, the Town will assume that the failure to return is not due to a continuing medical condition,

and the Town may recoup any health insurance premiums paid on the employee's behalf (see Section H).

F. Department Manager Notification The Personnel Director will designate leave as FMLA. If an employee requests the use of sick leave for maternity purposes, for example, or vacation leave to care for a sick relative, it is the department manager's responsibility to notify the Personnel Director immediately so that the leave may be appropriately designated. FMLA status may not be granted retroactively.

G. Leave Integration

1. **Employee Illness** The employee may use sick leave and/or request extended sick leave benefits for personal illness in accordance with the procedures outlined in the Town's Sick Leave Policy or collective bargaining agreement. The employee may also utilize any accrued vacation 1, personal or compensatory leave (if applicable) for personal illness.
2. **Family Member Illness** The employee may use sick leave for family member illness, up to a fiscal year maximum, as outlined in the Town's Sick Leave Policy or collective bargaining agreement. The employee may also use vacation, personal or compensatory leave (if applicable) for family member illness situations.
3. **Mother/Birth** The employee may use up to eight (8) weeks of accrued sick leave for the birth of a child, and may request the use of additional sick leave if medically necessary, as determined by the employee's treating physician. The employee may also use accrued vacation, personal or compensatory leave (if applicable) for the birth or adoption of a child, in accordance with the Maternity Leave Policy or collective bargaining agreement. Eligibility for FMLA leave for the birth of a child expires within 12 months of the birth 2.
4. **Father/Birth** The employee may use sick leave, up to a fiscal year maximum, as outlined in the Town's Sick Leave Policy or relevant collective bargaining agreement. The employee may also use accrued vacation, personal or compensatory leave (if applicable) for the birth of a child. If both the mother and father are employed by the Town of Needham, only 12 weeks of combined leave are authorized under the FMLA.
5. **Adoption** The employee may not use sick leave for the placement of a child for adoption or foster care in his/her home. The employee may use accrued vacation, personal or compensatory leave (if applicable) for the adoption of a child.

H. Payment of Health and Life Insurance Premiums

1. Employees on paid status will have their share of health and life insurance premiums (if applicable) deducted from their paychecks.
2. Employees on unpaid status for less than one calendar month must pay the appropriate premium directly to the Town during the week that the deduction would have been made had the employee been on the payroll.

1. The FMLA supersedes restrictions on vacation use during certain periods of the year, or by order of seniority, if the leave is for a qualified purpose.

2. M.G.L. Chapter 149 Section 105d provides that a female employee who has completed a six month probationary period, regardless of FMLA entitlement, must be granted 8 weeks of unpaid maternity and/or adoptive leave.

3. Employees who are on unpaid status for more than one calendar month must pay the Town directly, one month in advance of coverage.
4. Failure to submit payment within thirty days will result in cancellation of benefits.
5. Employees who fail to submit payment will be notified by certified mail that their health/life insurance coverage will be canceled after 15 days of non-payment. Reinstatement to the Town's plan will involve paying all past premiums owed to the Town, and may require insurance company approval.

I. Benefit Status/Accumulation

1. Employees on unpaid status will continue to accrue all leaves and benefits.
2. Employees on unpaid status will have sick and vacation accruals and step and longevity eligibility dates adjusted in accordance with Town policy or relevant collective bargaining agreement.

J. **Failure to Return to Work** If an employee fails to return to work after any FMLA leave (unless failure to return is through no fault of the employee) the Town will require reimbursement for health and life insurance premium payments. The Town will recoup these payments through any legal means necessary.

K. **Continued Leave** If the employee finds that the 12 week FMLA leave entitlement is not sufficient, he/she may request an unpaid leave of absence in accordance with Town policy or the relevant collective bargaining agreement.

L. Related Town Policies

Maternity Leave #306

Sick Leave Policy #303

Authorized Unpaid Leave of Absence Policy #305

Adoptive Leave #307

Parental Leave #308

Family Leave #309

Vacation Leave #310

Attachment A

Town of Needham

Employees' Guide to the Family and Medical Leave Act of 1993

This guide has been developed to assist employees in determining their rights under the U.S. Family and Medical Leave Act of 1993. Portions of the law are summarized below. For further information, please contact the Personnel Department.

Who is eligible for FMLA Leave?

All Town employees who have worked at least 1250 hours per year (approximately 25 hours per week) for twelve months are entitled to use FMLA leave.

When can FMLA Leave be used?

Eligible employees are entitled to use FMLA leave in the following circumstances:

1. for the birth and care of your child;
2. for the placement of a child in your home for adoption or foster care;
3. to care for your seriously-ill spouse, child or parent; and/or
4. because of a serious health condition that prevents you from performing your job functions.

A serious health condition is one which either requires inpatient care or continuing treatment by a health care provider.

How much leave may I take?

Eligible employees are entitled to take up to 12 weeks of FMLA leave in a 12 month period. The Board of Selectmen has designated there 12 month rolling backward method of determining eligibility. That is, to determine whether you are entitled to FMLA leave, the Personnel Department will examine your use of FMLA leave over the preceding 12 month period.

Entitlement to FMLA leave for the birth or placement of a child expires 12 months after that birth or placement. The law specifically limits the leave that may be taken by parents who work for the same employer to a combined total of 12 work weeks during any 12 month period for the birth or placement of a child.

Leave to care for a seriously ill family member or for your own illness may be taken on an intermittent basis when medically necessary. Intermittent leave may also be authorized for the birth or placement of a child, only when such intermittent leave does not create an undue hardship on your department.

Is FMLA Leave Paid or Unpaid?

Strictly speaking, FMLA leave is **unpaid leave**. However, you may request the use of accrued leave such as sick leave (when allowable under current policy), vacation leave, or other accrued leave as FMLA leave. That is, if you request a 12 week maternity leave, and wish to use 8 weeks of sick leave and 4 weeks of vacation, this 12 week period constitutes your FMLA entitlement, and you would not be entitled to another 12 week leave until after 12 more months have passed. Of course, if Town policy allows you to use additional accrued leave, you may, and you may request an extended leave of absence which may or may not be granted depending on the circumstances. Please check with the Personnel Department regarding the Town's policies under the FMLA.

What are my responsibilities?

- You are responsible to notify your supervisor/department manager in writing that the unpaid leave, vacation or sick leave you are requesting is for an FMLA purpose, so that your FMLA entitlement may be properly charged.
- As with any unpaid leave situation, you must discuss the continuation of your benefits, such as life and health insurance, with the Personnel Department. You will be entitled to retain your current health and life insurance contribution level while on unpaid FMLA leave. However, if you fail to return to work for at least 30 days, you may be required to repay the Town for health insurance premiums paid on your behalf.
- Because unpaid leaves of absence affect seniority, longevity and vacation accrual, and other benefits, you should discuss these issues with your department manager, payroll representative or the Personnel Department.
- You must give 30-days notice of your need to take FMLA leave to your department manager when such event is foreseeable. In emergency situations, notice should be given as soon as practicable.
- The Town may require that you provide a medical certification from a health care provider to support your FMLA leave request. In certain extraordinary circumstances, the Town may require you to obtain a second opinion, at the Town's expense, and you may be required to submit periodic updates on your medical condition. Finally, you may be required to submit medical certification of fitness for duty prior to returning to work.
- Employees who request the use of FMLA leave will be given additional written information concerning their rights and responsibilities.

Attachment C
Sample FMLA Request

Dear Department Manager:

Please consider this to be a request to utilize leave in accordance with the Family and Medical Leave Act of 1993. The qualifying reason for this leave request is

The leave I propose taking is:

I hereby certify that I intend to return to work. I understand that I may be required to provide medical certification of my ability to return. In addition, I agree that I will abide by the Town FMLA policies. I understand that should I fail to return to work for at least 30 days, unless through no fault of my own, I will be required to reimburse the Town for its share of health and life insurance premiums expended on my behalf.

Very truly yours,

Employee

Cc: Personnel Director

Attachment D
Notice to Employee re: FMLA Request

TO:

FROM: Assistant Town Administrator/Personnel Director

RE: Family and Medical Leave Request

DATE:

This memo confirms that you have given notice of a need for a family and medical leave under the provisions of the Family and Medical Leave Act of 1993 and the Town's policies enacting this federal law. This memo will also provide you with basic information about some of your rights and obligations under the Town's policies and the FMLA.

Designation of Leave and Effect on Leave Entitlement

Subject to any verification that may be required, your leave is designated as a leave covered by both the policies of the Town and the FMLA. Under the FMLA, you are entitled to up to 12 weeks of qualifying family or medical leave in a 12 month period. This 12 month period is determined by a rolling back 12 months from the date of your leave request. If you have not used any FMLA leave in the previous 12 months, you will be entitled to a full 12 weeks of leave. If, however, you have taken some FMLA leave, the 12 week entitlement will be reduced by that amount.

Pay Status During Leave

You may qualify to receive pay while on leave under the Town's vacation or sick leave policies. For more information about paid leaves, please refer to the Personnel By-law or appropriate collective bargaining agreement, or call the Personnel Department.

Medical and Life Insurance Coverage

During your leave, you will have the opportunity to continue your medical and life insurance coverage by paying the same share for such coverage as is charged to you as an active employee. During any paid portion of your leave, your share will be deducted from your pay, in the same manner as it is for active employees.

During an unpaid portion of your leave, you will be required to pay the Town directly for your share. If you do not pay the required amount within 30 days of the date that the payment is due, your insurance coverage will be canceled.

If you do not return to work for at least a 30 day period after the leave, you will be required to pay for the Town's share of health insurance premiums expended on your behalf during the unpaid portion of your leave. You will be required to reimburse the Town for these amounts unless your reason for failing to return is due to a serious health condition or to circumstances beyond your control. In such a situation, the Town will require that you provide verification concerning any medical reason related to the decision not to return.

Providing Information While on Leave

During the leave, you may be contacted periodically about your status and/or about your intent to return to work. You are expected to be fully responsive to such requests. You may also be required to provide medical information under certain circumstances when requested. In addition, you will be required to provide information from your primary medical authority certifying your fitness to return to work.

Restoration Rights

When your leave is completed, you will be entitled to be restored to your current position or to an equivalent position with equivalent benefits, pay and other terms and conditions of employment. However, you will not have any greater rights to restoration or benefits that you would have had if you had remained employed during the leave period. You will therefore be subject to any pay or benefit reductions or other adverse actions, including layoff, that you would have experienced if you had not been on a family and medical leave. In addition, if you advise the Town that you do not intend to return to work, your employment will end and you will have no restoration rights.

As with any unpaid leave, your benefit accrual may be impacted. Attached is some information specific to your request. Please review the above memo and the attached information carefully. If you have any questions, do not hesitate to contact me.

PERSONNEL DEPARTMENT USE ONLY

SPECIFIC INFORMATION

1. State type of leave requested.
2. State date leave to begin and end.
3. State need to provide medical verification.
4. Need to state intent to return to work, if not already done so.
5. State requirement for periodic medical verification of leave.
6. State if intermittent leave, reduced schedule; state actual agreed upon schedule.

7. State any vacation/sick leave requirements, limits.
8. State if employee is considered a key employee and what may happen.

Cc: Department Manger

Attachment F

SAMPLE UPDATE LETTER

Dear Employee:

I hope this letter finds you well along your way to recovery. Our records indicate that you have been on a family and medical leave for _____ days/months and are due to return on _____ date.

I would appreciate your contacting me in writing or by telephone if your plans have changed. Please be reminded that you will be required to provide medical certification of fitness for duty prior to returning to work.

Please feel free to contact me with any questions.

Very truly yours,

Assistant Town Administrator/Personnel Director

Cc: Department Manager